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Current Topics.

Expression of Intention to Revoke a Will.

THE DECISION of EVE, J., in *In re Robinson, The Times*, 19th June, incidentally affords an additional illustration of the burdens and difficulties occasioned by the doctrine of the unity in law of husband and wife which are catalogued in the learned judgment of MCCARDIE, J., in *Gottliffe* v. *Edelston, The Times*, 20th June, otherwise it deals with an important question on the law relating to wills. The testatrix made a will in November, 1914, directing her trustee to convert her residuary estate and to pay to her son during his life an annuity of £156 out of the income, and if that was insufficient (which it was) out of the capital. In 1921 she executed another document which she described as her "last will and testament," simply giving the whole of her property to her son absolutely. Unfortunately one of the attesting witnesses of this will was the wife of the testatrix's son, and consequently under s. 15 of the Wills Act, 1837, the gift became null and void. Both wills were admitted to probate, and the question arose whether, in the absence of any clause revoking previous wills, the second amounted to a revocation of the first. It was clear that the two documents were quite inconsistent with each other, and it was contended that the deceased died intestate, because the first will was revoked by the second, which failed to take effect, not through any infirmity of its own, but by reason of the incapacity of the legatee to benefit under it. This distinction is laid down in an early edition of "Jarman," founded on the now obsolete decision of *Onions* v. *Tyrer*, 1 P.W. 343, and is treated as valid in *Tupper* v. *Tupper*, 1 K. & J. 665, and *Baker* v. *Story*, 31 L.T. 631. But EVE, J., applying the observations of Lord DUNEDIN and Lord BLANESBURGH in *Ward* v. *Van der Loeff* [1924] A.C. 653, held that the distinction was quite unsound. A will is not automatically revoked by a later will; the question, as Lord DUNEDIN said, obviously depends upon the intention of the testator as gathered from the words he has used, and it is difficult to see how that intention can be varied according as the efficiency of the new arrangement depends on whether the testator has not legally carried out his intention, or whether the law has made impossible what he was trying to do. And the Privy Council decision of *Vencatanarayana Pillay* v. *Subammal*, 32 T.L.R. 118, is to the same effect. In *Birks* v. *Birks*, 4 Sw. & Tr. 23, Sir J. P. WILDE said he repudiated the notion that there was any particular form of words on which one's finger could be put as a universal test of revocation. EVE, J., therefore held on the authorities that the first will was not revoked by the second, there being no expression of an intention to revoke it, but the second will, being ineffective, the first was valid and the son was entitled to his annuity.

Automatic Machines.

A DECISION of considerable importance relating to the law governing the sale of goods from automatic machines was given by Judge CRAWFORD at Edmonton County Court on the 26th June. There was at one time, shortly after the passing of the Shops Act, 1912, some doubt whether the offering for sale of commodities through the medium of automatic machines was in fact legal, but all doubts in that respect were removed by the case of *Willesden Urban District Council* v. *Morgan* [1915] 1 K.B. 349 (59 SOL. J. 148). It was pointed out in that case that the intention of the Legislature was to secure the weekly half-holiday for shop assistants, and the use of automatic machines did not contravene that specific requirement. The present matter before Judge CRAWFORD carries the position much further, and suggests an inquiry into the advisability of supervising the nature of the articles so freely exposed for sale. In the case in question a chemist had placed a bottle of disinfectant, labelled "Poison" in a slot machine outside his shop, and the Pharmaceutical Society brought a friendly action against him to determine the legal position. The society's contention was that only a qualified chemist, and not an automatic machine, could conduct the business of a chemist and druggist. The Judge, in a considered judgment, said: "In my judgment the defendant carried on the business of a chemist and druggist through the medium of an automatic machine, through which he sold to the public a dangerous poison. In my judgment, any other conclusion would be most unfortunate in the public interest. The evidence satisfies me that any child tall enough to place the coin in the slot and take a bottle of lysol could do so without the knowledge of the defendant, or any person in his employment. Beyond all question this ought not to be allowed to continue." Judgment was given for the Society. The above passage puts the danger of the position clearly, and draws attention to the undesirability of indiscriminately placing possibly injurious articles within easy reach of children. The question of cigarettes has, of course, already received consideration in the Children Act, 1908. Section 39 of that Act lays down the penalties for selling cigarettes to persons "apparently under the age of sixteen years," and s. 41 provides that if any automatic machine for the sale of cigarettes is being used extensively by children or young persons, a court of summary jurisdiction may order the owner of the machine to take precautions to prevent it being so used, or to remove it. A more unfortunate difficulty with which the machine owner has sometimes to contend is the occasional insertion of spurious coins by irresponsible youths. In the statement of facts in *Reg.* v. *Hands*, 52 J.P. at p. 24, it is said: "For some time past . . . on clearing the box, which he did once or twice a day, he found that a large number of metal discs (brass and lead),

of the size and shape of a penny, had been put in, and a corresponding number of cigarettes had been taken out." There is, of course, the other side to be taken into account—when the machinery fails in its appointed duty and we have the somewhat humorous spectacle of a disgruntled investor shaking the machine viciously in the vain hope that it may give money's worth or else relinquish its illegal gain. On the whole, however, there is no doubt, in the interests of public convenience, that the advantages of automatic machines far outweigh their disadvantages.

Third Party Claims.

A CASE of considerable interest to motor car owners is reported in *The Times* (17th July). The plaintiff, Mr. ROGERSON, claimed (*inter alia*) a declaration that the defendants, the Scottish Automobile and General Insurance Company, Limited, were liable to indemnify him against any sums which he might have to pay in an action which had been brought against him as the result of a motor car accident. The defendants had contracted to indemnify the plaintiff against all sums which the latter might become legally liable to pay for bodily injury caused to anyone by the insured car and it was further provided that "this insurance shall cover the legal liability as aforesaid of the assured in respect of the use by the assured of any motor car (other than a hired car) provided that such car is at the time of the accident being used instead of the insured car." The plaintiff's old car, a Lancia, with a torpedo body, became dilapidated, and the plaintiff exchanged it for a Lancia with a saloon body, but owing to an oversight the insurance was not transferred. ROCHE, J., held that the plaintiff was entitled to succeed. There was no express term in the policy, and none should be implied, that continuance of the ownership of the car originally insured was necessary for continuance of the liability of the defendants in respect of third party claims. The old car and the new were of a similar type, and in fact the plaintiff used the new car "instead of" the old one. Difference in type is, therefore, presumably to be the test in this sort of case. There would be no necessity that the cars should be of the same make, provided they were of substantially the same size and power.

Unlawful taking of Motor Cars.

IN THE recent case of *Rex* v. *Schmidt and Edling* (1930), 2 Western Weekly Reports 497, decided by the Court of Appeal of British Columbia, attention is drawn to two extremely important sections of the Criminal Code of Canada (R.S.C., 1927, c. 36), relating to motor car offences which may afford hints for our Legislature in its efforts to combat the prevalence of the unlawful taking of motor cars. Section 377 provides that "everyone who is found guilty of stealing any automobile or motor car shall be sentenced to not less than one year's imprisonment . . ." This may appear somewhat drastic for a first offence, but the facility with which motor cars can be unlawfully abstracted and disposed of appears to require a sentence so severe as may at any rate tend to make evil-disposed persons pause before making off with such a vehicle. Much heavier penalties are provided in the case of a second offence. But the Canadian authorities have not been content in their Code to deal with the offence of the theft of a motor car; they have dealt likewise with the offence, known in Roman law as *furtum usus*, an offence not yet known to English law but part of the law of Scotland where the element of clandestinity is present. The Canadian Criminal Code deals with the matter thus in s. 285, sub-s. (3): "Everyone who takes or causes to be taken from a garage, stable, stand, or other building or place, any automobile or motor car with intent to operate or drive or use or cause or permit the same to be operated or driven or used without the consent of the owner shall be liable, on summary conviction, to a fine not exceeding five hundred dollars and costs or to imprisonment for any term not exceeding twelve months or to both fine and imprisonment." Thus does Canada seek to deal effectively with those who unlawfully intermeddle with motor cars and then plead in extenuation that they were only indulging in what they are pleased to call "joy-riding."

Comfort before Decorum.

BY THE express invitation of a newly appointed judge, the Supreme Court room at White Plains (New York) was last week made to look "like a certain type of men's club." According to the correspondent of the *Morning Post*, the judge invited the jury to smoke, to take off their coats, to roll up their sleeves, and to put their feet on the jury box rail. "Clouds of smoke soon rolled toward the chandeliers, and the jurors had every appearance of appreciating Justice MACK'S favours. Feet rose as high as chins, and the jury box resembled the first tee at a municipal golf links, so far as costumes were concerned." We are glad this does not happen, and is not likely to happen, in this country. Jurors should be made as comfortable as possible, and if they feel too hot they might be allowed to take off their waistcoats; but we should be sorry to see them in their shirtsleeves, with feet as high as chins, puffing clouds of smoke. The attitude of the body has undoubtedly a subtle effect upon the attitude of the mind; and it is hard to believe that an alert mood of concentration goes well with the free and easy style of behaviour described. In this country we are old-fashioned enough to believe that wig and gown and a certain formality make for the more dignified and the more efficient administration of justice as a serious business. If in the dog days learned judges occasionally discard wigs and invite counsel to do the same, that is about as far as they care to go. And if men cannot comfortably manage without tobacco for the hours they sit on a jury, then it is high time they were made to go without it, for they must evidently be enslaved to the habit!

"Usual Risks" of Flying.

A LEGAL point of novel importance was raised in an action at Birmingham Assizes on Monday, 22nd July, in which four persons injured in a flying mishap brought a joint action against the proprietors of the airplane, alleging negligence. They pleaded that it was an implied term of the agreement that defendants should exercise all reasonable and due care to carry the plaintiffs safely, but they failed to do so, for the aeroplane crashed in a field. The particulars of negligence alleged included that the defendants failed to provide and ensure a proper and continuous supply of petrol for the engine. The defendants admitted that an accident occurred whereby the aeroplane was forced to descend, but they denied there was any breach of their agreement, save that there was an accidental interruption of the petrol supply to the engine, whereof the plaintiffs took the risk. Alternatively, defendants said if plaintiffs were injured as alleged, which was not admitted, the injuries were due to the usual risks of everyday flying, and that they voluntarily undertook the risks. The case was not fought out, because during the taking of evidence a petrol tank was produced which an expert witness declared was nothing like the tank in the machine which crashed. This caused MCCARDIE, J., the presiding judge, to remark upon the seriousness of this allegation, and to suggest to Mr. NORMAN BIRKETT, K.C., appearing for the defence, that he should consider the position. Ultimately a settlement was announced. The issue of "usual risks" was therefore not decided. It is, however, a question that is bound, sooner or later, to come up for consideration and decision by the courts. At present there are no direct precedents, but having regard to recent lamentable fatalities, the determination of this issue cannot be long delayed.

Criminal Law and Practice.

PRISON FOR A BOY.—It is so much against present policy to send young offenders to prison unless other methods have been tried without success, that it is not surprising to find attention directed in the press to the case of a lad of sixteen sentenced at Leicester to a term of six months' hard labour for what is described as a first offence. Whether it was really his first offence, or only the first time he had been in court, is a matter upon which we have no information; but if it really was a single offence, and a first offence, the sentence is certainly more than ordinarily severe.

Home Secretaries have one after another deprecated the sending of young offenders to prison; but they have recognised that this course is on rare occasions the only possible method of dealing with a bad case. The Liverpool justices, who apparently became interested in the matter because the lad is in prison at Liverpool, took the unusual course of passing a resolution recording their grave concern at the sentence, and asking the Home Secretary to direct an immediate inquiry. It was stated, however, that the visiting justices had already been informed that the Home Secretary could not interfere in the matter.

Meanwhile there is the curious spectacle of one bench of justices expressing its disapproval of a sentence passed by another bench in a different part of the country, a situation not without interest, but not entirely edifying for the less informed members of the public, especially that section which is inclined to disparage the work of the unpaid justice of the peace.

POLICE QUESTIONS TO SUSPECTS.—The Metropolitan Police are subject to the Home Office, but the latter department of State has no authority to lay down rules of evidence, the acceptance or rejection of which is entirely within the province of the judiciary. Policemen who ask questions with a view to making charges have in a way to look in two directions at once, for they must neither exceed the duties of their office, nor collect evidence by such means that it must be rejected in a court of law. In the circumstances, the issue of a circular by the Home Office, with the approval of the judges, as to questions asked by the police in the course of their duties, may be regarded as the best way of giving them guidance. The judges' rules for the police in respect of questions, printed in "Archbold Criminal Pleading Evidence and Practice," 27th ed., p. 398, do not appear to be made under any statutory power, but neglect of them on the part of an officer might lead to the rejection of otherwise admissible evidence. The circular explains the working of certain of the rules, and reconciles two of them which appear to have caused confusion. Perhaps the most noteworthy feature of it, however, is that it leaves the rules unaltered, and to that extent the unanimous recommendations of the recent Royal Commission on Police Powers and Procedure appear definitely to be rejected by the authorities concerned, e.g., see No. (xiii), p. 114, recommending a somewhat sterner form of caution. It is, of course, notorious that the reactions of the *Savidge Case* handicapped the police in their normal duties of collection of evidence as to offences, and the Government appears to have decided that the censure on the somewhat injudicious procedure adopted in questioning Miss SAVIDGE will be noted by the force, and that the incident is no reason for a change of rules. Probably the somewhat formidable warning recommended by the Commission ("It is a serious matter, and I must warn you to be careful what you say") would be calculated to alarm the uneducated, and check the communication of evidence which otherwise might have been volunteered without difficulty. The modification of r. 5, by dropping the last two words in the caution, "whatever you say will be taken down in writing and may be used in evidence against you," was to the same end. For our views generally on the functions of the police in respect of questions we may refer generally to our articles "Police Evidence and the Public," 71 SOL. J. 795, and also 72 SOL. J. 344, with an additional note on p. 508.

The Two Bills.

II.

IN OUR issue of 26th July, we wrote "It may be, however, that under the newly conferred power of making rules the council will be able to make more stringent regulations." We are obliged to a correspondent for pointing out that the power conferred by cl. 3 of the bill is given to the Society, not to the council.

The point taken is that if it is to be the council who are to make the rules, there will be more likelihood of the power being exercised expeditiously and effectively, because if it rests with the Society, the rules would have to be submitted to a general meeting whose approval might not readily be obtained. The suggestion therefore is that "council" should be substituted for "society" in cl. 3 (1).

Whilst we agree that the suggested alteration would facilitate the making of new regulations, we do not agree that the Society in general meeting should have no voice in the matter. The whole basis of this bill is the approval of the profession as represented by the Society, to the principle of it, and we do not see why rules recommended by the council should be made unless the Society in general meeting approves of them.

We do not need to look far to see the evil consequences of the delegation of the power to legislate under the guise of rules.

Of course it all depends upon the point of view. To those who think that the bill or some other bill with the inevitable rules should be foisted upon the profession, whether they like it or not, so that the defenceless public may be protected against so unscrupulous and untrustworthy a body, no doubt it would seem good that the power to legislate by regulations should be delegated to the council, or better still, to a small committee, or best of all, perhaps, to a government department wily in the art of drafting Statutory Rules and Orders. To those, however, who hold that the only justification for the bill itself and the rules made thereunder is the general consent of the profession, it appears in a different light, and to them it seems that the society should by no means delegate its authority. In our view, not only should the regulations be approved by a general meeting of the Society, but there should be provision made for due publicity being given to them beforehand by the text being inserted in *The London Gazette* and due notice given by advertisement of a general meeting, specially convened for the purpose, at which a resolution of approval is intended to be moved. We think also that careful consideration should be given to the question whether voting by general or special proxies should not be allowed.

To return to cl. 1 of the bill. We think that compulsory membership of the Society may be a desirable thing in the public interest, and from that point of view only is to be commended, but we are bound to say that we are unable at present to see why the same end could not quite as effectively be achieved by substituting for cl. 1 a provision to the effect that the Act shall apply to all solicitors holding practising certificates, whether members of the Society or not. In fact the power conferred by cl. 3 enables rules to be made regulating the conduct of all solicitors, not merely members of the Society, so cl. 1 is not required at all as a safeguard for the public.

Of course the main object of cl. 1 is to provide funds for the purposes of cl. 2. We propose, however, to deal with that aspect of the matter in discussing cl. 2.

In the meantime we may say that we hope at least to see cl. 1 amended so as to apply only to solicitors who take out (and so long as they take out) practising certificates. We have had a large number of letters on the subject of the bill, only a few of which we have been able to find space to publish, and on this point our correspondents are practically unanimous. In this connexion it has interested us very much to notice that whilst there has been quite a storm of protest (and quite rightly so as we think), from and on behalf of

members of the profession who have retired from active practice, we do not remember seeing any letter calling attention to the hardship which the clause would inflict upon those (a great many of them young men recently qualified) who are in the employ of other solicitors. To deprive such men of the right of being admitted upon the Roll or, having admitted them, to levy a contribution in the form of a subscription as members of the Society would in our view be most unjust.

There is a further point which cannot be ignored. A young man who becomes articled to a solicitor at the present time does so on the terms that, provided he serves his articles, passes the prescribed examinations and pays The Law Society's examination and admittance fees and the stamp duty, he will be entitled to be admitted a solicitor. He knows that when admitted he need not take out a practising certificate, but may earn a modest (generally, it is true, wholly inadequate) salary in the office of another solicitor until he has the opportunity or desire of practising on his own account. He knows, indeed, that the government may raise the stamp duties or even impose other forms of taxation on him, but he might be excused if he regarded it as hardly fair if The Law Society did not use every effort to protect him from any such further impositions. In these circumstances it might be argued with some force that if cl. 1 is to stand it should not apply to any except those who become articled after the passing of the Act.

At any rate, no one suggests that the bill has received the assent of non-practising solicitors or of any body even pretending to have the right to speak for those members of the profession which seems to us to be conclusive against making the bill apply to them.

Another question which arises under cl. 1 is, what is to be the position of the provincial law societies? We have no doubt that this has been considered, and it has not been found possible or at least practicable at the present time to evolve a satisfactory scheme whereby membership of the local societies shall be deemed sufficient for the purposes of the bill, without the necessity of joining the parent society. Such a scheme would doubtless involve the payment by the local societies of a part of their members' subscriptions to the parent society for augmentation of the relief fund, but we do not see why there should be any difficulty about that. There would be many advantages in such a system. In our issue of the 2nd August we published a letter from Mr. Clifford Bowling, of Leeds, who advocates the increase of the disciplinary powers of local societies, and we are inclined to think that he is right. It seems to us, however, that it would be necessary to strengthen the local societies, which could be effected by exempting members from membership of the society in London. We fear if that is not done the result of the Bill will inevitably be the withdrawal of support from the local societies. We should have thought that the right tendency was in the other direction. It may be that there are objections to placing full disciplinary powers in the hands of the local committees, but at least they might have powers of investigation and authority to act promptly and effectively to prevent the continuance or repetition of misconduct. We should be glad to know the views of more of our readers on this point, which we think is of some importance.

(*To be continued.*)

RAILWAYS (VALUATION FOR RATING) ACT, 1930.

The Railway Assessment Authority have appointed Sir Edward J. Holland as their representative on the Anglo-Scottish Joint Authority in place of Sir James Curtis, K.B.E., who has had to resign therefrom owing to indisposition.

The other members of the Joint Authority are Mr. Joshua Scholefield, K.C. (Chairman of the Railway Assessment Authority) and Mr. John A. King, F.S.I. (Assessor of Railways and Canals in Scotland). The Authority held its first meeting on the 1st August.

Mr. A. E. Joll has been appointed Clerk of the Joint Authority, and all communications should, for the time being, be addressed to him at the office of the Central Valuation Committee, New Public Offices, S.W.1.

Company Law and Practice.

XL.

ACQUISITION OF DISSENTING SHAREHOLDERS' SHARES.

THE terms of s. 155 of the Companies Act, 1929, by which an effort was made to prevent what has not inaptly been termed an oppression of the majority, have already been dealt with in this column, but in view of a recent decision, it may not here be inapt to make another short reference to them. Very briefly, the section provides where a scheme for the transfer of shares in a company to another company is, after the commencement of the Act, approved by 90 per cent. in value of the holders of such shares, the transferee company may, subject to the safeguard provided by the section, compulsorily acquire the shares of dissenting shareholders on the same terms as those on which the other shares are being acquired. The safeguard provided is that a dissenting shareholder whose shares the transferee company is proposing to acquire may apply to the court which may grant him relief in some form or another. Section 155 also provides that, where a scheme of this nature has received the 90 per cent. approval at any time before the 1st November, 1929, the court may, on application to it by the transferee company before 1st January, 1930, authorise the giving of a notice indicating the intention to acquire the shares, and the terms of the section outlined above are to apply accordingly in such a case, with the variation that the terms of acquisition are not to be those on which the other shares are being acquired, but such terms as the court by the order directs. An application of this nature by a transferee company is to be made by petition (Ord. 53B, r. 5 (*j*).

Such an application has recently been considered by Eve, J., in the case of *Re Castner-Kellner Alkali Co. Limited* (1930), W.N. 207. In that case the Castner-Kellner Alkali Company had an issued capital, fully paid-up, of £1,000,000, divided into 1,000,000 ordinary shares of £1 each, of which Brunner Mond and Co. Limited held 252,000. In January, 1920, Brunner Mond & Co. Limited made an offer for the purchase of all the other shares in the Castner-Kellner Alkali Company, the consideration for each share to be two £1 ordinary shares in Brunner Mond & Co., and the offer to be conditional on its being accepted by 75 per cent. of the shareholders in the Castner-Kellner Alkali Company.

The offer met with a good reception, and in fact by September, 1922, more than 90 per cent. of the shareholders had accepted it. At the date of the petition there were only 708 shares out of the 748,000 the subject of the offer, the holders of which had refused to accept the terms.

In December, 1926, Imperial Chemical Industries Limited was formed to acquire all the shares in Brunner Mond & Co., and other companies. The dissenting shareholders were offered for each of their Castner-Kellner shares three £1 ordinary shares and two 10s. deferred shares in Imperial Chemical Industries Limited, but they had again proved adamant, the ground taken being that such an offer was inadequate properly to compensate them. Accordingly the petition in this case was presented; and on the hearing the dissentients argued that (apart altogether from the inadequacy of the offer made) the case did not now come within s. 155 at all, because the scheme was a scheme for the acquisition of the shares in the Castner-Kellner Alkali Company in exchange for shares in Brunner Mond & Co., and that such a scheme could not be carried out, owing to the change which had taken place by reason of the acquisition of the shares of Brunner Mond & Co. by Imperial Chemical Industries Limited.

Eve, J., however, took what appears to be the view most consonant with the spirit of the section by saying that this objection could not prevail, for in s. 155 there is nothing which controls the nature of the offer, and that the function of the court was to determine the terms of acquisition: but on the evidence his lordship did not accept the value put upon the Castner-Kellner shares by the petitioners as being high enough, and he accordingly made the order on the basis of the shares

being worth £5 11s., instead of the £3 17s. suggested by the petitioners, and also allowed interest at 6 per cent. as from the 31st December, 1929 (the last day for the presentation of petitions in the case of schemes approved by 90 per cent. of the holders before the commencement of the Companies Act, 1929), until payment.

It might almost be said that the report appears to suggest that the only thing the court has to do in such a case is to fix the value of the shares for the purposes of the acquisition by compulsion, but this is not so, for there is a discretion in the court as to whether it will authorise the giving of the notice of the desire to acquire the shares, which is a condition precedent to the compulsory acquisition, otherwise there would seem to be no reason for the section to say that the court "may" authorise notice to be given, when, to allow the notice to be given in any case, would have led to the same result. Accordingly the court must decide on the facts of each particular pre-Act case, whether it is a proper case at all for the compulsory acquisition of shares, before it embarks upon the question of value, but there is as yet no guidance on the question as to the principle on which such discretion will be exercised. Probably it is now of no materiality, or, at any rate, very little, as the application in such a case must have been made before the end of last year, but, presumably, a broad equitable view would be taken.

(*To be continued.*)

The Protection of Shareholders.

[CONTRIBUTED.]

A SERIOUS criticism of company law is reported to have been made at Norwich by Mr. HENRY MORGAN, President of the Society of Incorporated Accountants and Auditors. Thus "under existing company law directors could afford to treat with contempt the efforts of shareholders to exercise any influence over the affairs of their company, or the constitution of the board." He suggested that a simple remedy would be to provide shareholders with "a fair and proper method of recording their votes," and if this were done many of the grave abuses of public company practice would rapidly disappear. He observed that the present means whereby shareholders might exercise their voting right were as obsolete as the methods of electing a member of Parliament a hundred years ago.

Coming from such a source, such criticism must be regarded as authoritative—and so, in view of the very recent legislation, discouraging. Last year's consolidating Act, prepared by experts, and framed to prevent every kind of fraud and unfair dealing which ingenuity had discovered to be possible under the previous statute, was generally welcomed as a great reform, embodying as it did the numerous improvements made by the 1928 Act. If the result is as stated by Mr. MORGAN, it is a failure.

The specific charge that shareholders have no proper opportunity of recording their votes must be considered in the light of the Act itself. It is to be observed, however, that the directors of prosperous companies wish to be hampered in their work as little as possible by the delay and expense of general meetings to ratify their decisions, and shareholders in such companies usually desire to draw their dividends, and let the directors perform the functions for which they are paid, without interference. In such cases a cloud of compulsory legal safeguards would be a mere nuisance.

The opposite case is that of the unsuccessful company, and the law must be framed to meet both. When a company is unsuccessful, the shareholders will naturally desire to know the reason. In particular, they will wish to ascertain at the earliest possible moment whether the board is responsible for the failure, and, if their answer to this question is in the affirmative, to replace it with a new one as soon as possible.

Turning to the Act, possibly the shareholders' main protection against a fraudulent or incompetent board is contained in the penal sections, such as ss. 276 and 277. Section 217, which is new, also protects shareholders generally from the professional swindlers who specialise in frauds on them. The new s. 152 is also to be noted, forbidding the old "common form" article which exonerated directors from the consequences of their own negligence.

Mr. MORGAN's criticism, however, appears to be directed to cure rather than prevention. In effect, he says that shareholders are not masters in their own house.

The shareholders' ordinary safeguard while a company is a going concern is the compulsory annual general meeting, and the statutory report prescribed by ss. 112 and 113, fortified by the provisions as to accounts and audit. In the absence of fraud, shareholders should at least obtain a plain statement of their company's affairs once a year. The audit is a precaution against fraud, and ss. 125 and 126, as to subsidiary companies, are directed against frauds of the well-known WHITAKER WRIGHT or JABEZ BALFOUR type. It is to be observed, however, that such a fraud as that revealed in the *Kingston Cotton Mill Case* [1896] 2 Ch. 279, still remains possible.

By s. 130 (1) each shareholder must receive the balance sheet a week before the annual general meeting, and to it must be attached the directors' report (s. 123 (2)) and that of the auditors (s. 129 (1)). If then the balance sheet and report show that the company is trading at a loss, or otherwise unsuccessful, the shareholder receives notice of the fact from these documents. Assuming that cl. 42 of Table A or an equivalent article applied to the company, he might not be able to do much at the subsequent general meeting, except to get into touch with other shareholders attending. By s. 114 of the Act, however, if he can collect one-tenth in value of the votes of the shareholders, they can require the directors to convene an extraordinary general meeting to pass any extraordinary resolution, or, with three weeks' notice, a special resolution according to s. 117 (2). Let it be supposed, then, that the resolution is to dispense at once with the services of the whole board and elect others. With the articles in the usual form, providing for rotation, they would have to be altered, and that would require a special resolution. But the overthrow of the whole board in this way would be *intra vires: Browne* v. *La Trinidad* (1887), 37 C.D. 1, subject to any special contract with a director to retain his services for a definite time, an unusual arrangement except in the case of a managing director.

If the directors refuse to call a meeting for their own deposition on such requisition, the requisitionists have the power to do so. A chairman of directors presiding at such a meeting, according to the articles, might declare, perhaps untruly, that the vote was not carried on the show of hands, but the opposing shareholders, if in strength sufficient to satisfy s. 117 (4) of the Act, could, and no doubt would, demand a poll. The Act does not prescribe any particular method of taking a poll, but a chairman who attempted to juggle with figures or suppress hostile votes would, on proof of the facts, receive short shrift from a Chancery judge.

The conclusion is therefore that, within a month of determining on such a course, the requisite majority of shareholders can, by recording their votes, entirely overthrow a board and elect successors to the directors, to pursue an absolutely new policy.

In theory it is certainly difficult to reconcile the attitude of contempt which, according to Mr. MORGAN, directors can afford to take towards shareholders with this power. As a practical matter, however, directors have, so to speak, a flying start over rebellious shareholders, for the former are organised, and the latter are not. Or, to vary the metaphor, a rabble has to attack and take a fortified position held by trained troops. Shareholders as a class are also sluggish—they have invested their money to draw dividends without

trouble, and resent taking any, and are inclined to cut their losses, and to obtain a three-quarters' majority in such circumstances is no doubt very difficult. In a large percentage of cases, of course, the business is in ruins before the shareholders know anything about it. In such circumstances winding up is the only possible course. There is then always the possibility of making directors liable for losses by fraud or negligence, but it is usually a forlorn hope.

Possibly a permanent committee of shareholders, or an inspector permanently in office under s. 137, would adequately protect shareholders against directors, but it would be beyond reason to require every successful company to set up such machinery. The inherent trouble seems to be that directors can conceal loss and failure from shareholders for a considerable time, and it must remain inherent because it is the directors' duty to conduct a company's business, and a shareholder's normal duty at least to refrain from interference with it.

A Conveyancer's Diary.

Exercise of Special Power of Appointment by Anticipation.

In *Re Bower ; Bower* v. *Mercer* [1930] 2 Ch. 82, Clauson, J., found himself, he said, "in the somewhat unusual position of having to decide a point which everyone agrees is not covered by authority."

The case turned upon the validity of the exercise by will of a special power of appointment created after the date of the will, and the effect of a codicil confirming the will when the power was created after the will, but before the codicil.

In 1916, E.M., by her will in expressed exercise of the power contained in a settlement of 1906 and of the power which might be given to her by the will of her father, who was still living, and also in exercise of all and every other power then or at the time of her decease, her thereunto enabling, appointed that the income arising from her share in the 1906 settlement fund and the income arising from any share which she might become possessed of under the will of her father or otherwise howsoever, should be paid to her husband H.M. during his life. In 1918, E.M. became entitled under the trusts of a settlement of that date to appoint by deed or will, after her death, an interest in favour of her husband, until his re-marriage in the share thereby settled upon her and her children in the settlement trust fund. In 1919, E.M. executed a codicil by which, after making certain alterations in some bequests contained in her will, she in all other respects confirmed her will. In 1924, E.M. became entitled under the trusts of a settlement of that date to appoint by deed or will, after her death, an interest in favour of her husband until his re-marriage in the share thereby settled upon her and her children. E.M. died in 1929 without having, since her execution of the codicil in 1919, executed any deed of appointment in favour of her husband or any further codicil. In consequence of her death without issue her shares in the settled funds were, subject to any interest therein, validly appointed to her husband, settled by way of accruer upon trusts in favour of her brothers and sisters and others.

It was held, first, that by the joint effect of the will and codicil a life interest in E.M.'s settled share in the 1918 settlement fund was validly appointed in favour of H.M., until his marriage and, secondly, that as the power given to E.M. by the 1924 settlement related to an appointment to be made after that date and there was no confirmation of her will subsequent to the execution of that settlement, there was no valid appointment of any interest in her share in the 1924 settlement funds.

In the first place, it may be observed that the provisions of the Wills Act, 1837, which have the effect of making a will speak from the date of the death of the testator and not from its own date, do not apply. Section 24 of that Act enacts that every will shall be construed "with reference to the real estate and personal estate comprised in it" to take effect as though it had been executed immediately before the death of the testator. The property over which the testatrix had a special power of appointment was not "comprised in" the will, and so that section has no application. There appears to have been some doubt upon that point at one time, but it has long since been well settled (see *Re Hayes* [1900] 2 Ch. 332, per Byrne, J., at p. 336).

Again, s. 27 of the Wills Act does not apply to the facts of the case. That section provides, in effect, that a general gift in a will shall include estates which the testator "may have power to appoint in any manner which he may think proper," and consequently refers only to general and not to special powers of appointment.

The questions for decision in *Re Bower* had therefore to be considered apart altogether from the Wills Act.

The first point was with reference to the power contained in the Settlement of 1918, which came between the will and the codicil. If the effect of the codicil was to incorporate the will so as to make the date of the codicil the date of the appointment, the question of the validity of an appointment in exercise of a special power not yet in existence did not arise. It was contended (and not, I think, without some force) that the proper method to adopt was to read the words of the will into the codicil, the result of which would have been that the reference to future powers would still be to powers future to the date of the codicil and not merely to the date of the will, which would have excluded the power created by the settlement of 1918. The learned judge, however, rejected that contention. He said: "In my view there is quite sufficient in the will as re-published in the codicil to point clearly to her intention to utilise any power at that time, that is, at the date of the codicil or at the time of her decease, enabling her to appoint a life interest or similar interest in favour of her husband. She was then possessed of such a power; she became possessed of it before the date of the codicil, so that the codicil had this effect upon the will, that it brought the 1918 settlement fund, the income of which Mrs. Mercer was given a power to appoint in favour of her husband, within the operation of the appointment by her will, an operation which that appointment would not have had but for the codicil."

The second point was regarding the power contained in the settlement of 1924 which was not executed until after the date of the codicil. That point raised the question whether a special power of appointment could be exercised by anticipation and that question does not seem to have been definitely answered in any reported case.

The difficulty in supporting such an exercise of a power is, of course, that the donee of the power could not have had it in mind. In *Re Bower*, however, the testatrix seems to have intended to exercise any power which she might be given after the date of her will, whether such a power was special or general.

In *Walker* v. *Armstrong* (1856), 21 Beav. 284, 305, Romilly, M.R., expressed the view that "it could not be successfully contended that a person could exercise a power by anticipation and that the person who is to become the donee of a power can exercise the power before it really exists." There are other cases in which similar expressions occur, but in none of them, I think was the court dealing with a will in which the testator had expressly referred to future powers.

In *Re Hayes* (*ubi supra*) the question was raised, but it was not decided. It appears, however, from the judgment of Byrne, J., that if there had, in that case, been an express reference to special powers created afterwards that might have been sufficient, but the learned judge held that the words of the will did not refer to any after-created power, and so the point was not decided. It is a pity that in *Re Bower* also the learned judge did not find it necessary to decide the point.

The conclusion to which Clauson, J., came on the second question involved in that case was based upon the wording of the settlement of 1924, and is not without interest. That settlement contained a direction for payment of the income after the death of the donee of the power to the husband "if she shall by deed or will appoint." It was argued that that expression ought to be construed as "if she shall at the time of her decease have appointed," but the learned judge took the view that "shall" must be read strictly as importing futurity and that consequently an exercise of the power to be effective must have succeeded the settlement. It seems, however, although it was not decided, that if there had been a codicil confirming the will, dated after the settlement, the power would have been well exercised without any specific reference to it.

Incidentally, it is interesting to compare this decision with *Re Walker* [1930] 1 Ch. 469, which I discussed in the "Conveyancer's Diary," for 5th July. That case, it will be remembered, turned upon the meaning of "shall die," and followed earlier authorities in holding that words of futurity must be strictly construed as such in the absence of some context requiring a different meaning. *Re Walker* adds another to the line of decisions to that effect.

Landlord and Tenant Notebook.

Compensation for Disturbance: 1.—The Claim.

The provisions for compensation for disturbance are contained in the longest section of the Agricultural Holdings Act, 1923 (s. 12), almost a complete code in itself. Some of the defects in earlier statutes were amended by this section, and comparatively little has been required in the way of judicial interpretation. The first sub-section, which deals with cases in which notice to quit has been given by the landlord, contains some half a dozen savings and three provisos (two of which are now probably "spent"); but few of these have figured in cases stated by arbitrators.

At the outset, however, it is provided that the tenant must quit in consequence of notice to quit, and in *Mills* v. *Rose* [1923] W.N. 330, C.A., the Court of Appeal was called upon to rule as to the causal connexion between the two events. The tenant had stayed on after the notice expired (his explanation being that his wife was too ill to be moved); the landlord had then sued and obtained judgment for possession and the sheriff had done the rest. The arbitrator found as a fact that the tenant had left in consequence of the notice to quit, not in consequence of the judgment for possession; and the Court of Appeal, in upholding him, considered that the question was so purely one of fact and that no case ought to have been stated. In Scotland, a similar point was similarly disposed of in *Hendry* v. *Walker* (1927), Sc.L.T. 333.

The saving as to refusal, etc., to arbitrate as to rent, by which a landlord who reasonably wishes to raise the rent can protect himself, came before the Court of Appeal in *Westlake* v. *Page* [1926] 1 K.B. 298, C.A. The landlord in that case had attempted a short cut by sending, with the notice to quit, an invitation to agree to a higher rent. It was held that the refusal or failure to agree to arbitrate as to rent must precede the notice to quit; indeed, it is difficult to see how the requirement as to stating the reason can otherwise be complied with. With regard to this statement, a decision on the corresponding sub-section of the section dealing with notice to quit by the tenant (sub-s. (3)) illustrates the requirements. In *Selleck* v. *Hellens* (1929), 98 L.J. K.B. 214, C.A., tenants whose landlord, according to the arbitrator's finding, had *failed* to agree to the demand within a reasonable time, sent notice to quit with a statement that he had *refused* to agree to such demand. This was held to be bad; Scrutton, L.J., agreed with the view taken by the county court judge, that the provision, like a penal statute, should be strictly construed. It was said, however, that a notice in alternative form would be good.

The first of the provisos referred to gives the landlord a *locus pœnitentiæ*; if he makes a written offer to withdraw the notice to quit, the tenant refuses such offer at his peril, for if the refusal be unreasonable, the right to compensation is lost. What will constitute such an offer was considered in *Re Perrett and Bennett-Stanford's Arbitration* [1922] 2 K.B. 592, C.A., in which the landlord had written that he had an offer at a figure he named, which was higher than the old rental, and said "If you choose to give me the same you are most welcome to continue the tenancy." This offer, which was declined, was held to be an offer of something different, not an offer to withdraw the notice to quit.

The provision as to notice of claim in sub-s. (7) (*b*) cannot, in its present form, give rise to difficulties in the matter of time, as did its predecessor (see *Cave* v. *Page* [1923], W.N. 178, C.A.); but some embarrassment has been caused when reversions have been sold and tenants have not known to whom to address their claims. The interpretation section, s. 57, defines landlord as the person for the time being entitled to the rents and profits; it also safeguards the tenant who has once commenced proceedings before an assignment of the reversion; but it is a pity that provision was not made, in the case of claims for disturbance, for the possibility of sale after notice to quit but before notice of claim, after notice of claim but before claim, and for intervals between sale and completion. In *Bradshaw* v. *Bird* [1920] 3 K.B. 144, a tenant who had received notice to quit from the vendor and given notice of claim to the purchaser before completion was held entitled to compensation from the latter, as being the person entitled to rents and profits when the claim matured. In *Dale* v. *Hatfield Chase Corporation* [1922] 2 K.B. 282, a tenant who had given notice of claim to the assignor before sale successfully proceeded against the assignee. More complicated circumstances obtained in *Richards* v. *Pryse* [1927] 2 K.B. 76, C.A.; notices to quit followed an agreement for sale; the conditions of sale named a date for completion and provided for apportionment of rents and outgoings on that date, which was to precede the expiry of the notices to quit. Actually, completion did not take place till after. The ruling of the court was that completion meant actual completion, and the vendor was in fact the person entitled to the rents and profits when notices to quit expired.

Our County Court Letter.

THE JURISDICTION OF THE COUNTY COURT.

THE ever-widening range of the above still has its limits, as shown by two recent cases. In *Baddeley* v. *Newcastle Borough Burgess Trust* the plaintiff claimed £2 in respect of one year's burgess dividend, payable to borough freemen. The plaintiff's case was that (1) he was a free-born burgess, (2) the removal of a name from the list (as had happened in his case) was unprecedented, (3) residence elsewhere was no cause for non-payment, as his share had been forwarded to him in Scotland for some years, and he had never missed visiting the borough once a year. The defence was that the burgess list had been posted on the town hall for ten days, in accordance with the Newcastle-under-Lyme Burgess Land Act, 1859, s. 19, and that the plaintiff had not objected to the omission of his name within the ten days allowed. Any claims or objections would then have been dealt with by the clerk, from whom there was an appeal to quarter sessions under s. 25. It was pointed out that the plaintiff's dividend had only been forwarded while he was on war service, and that he had not been on the list since 1920, as the corporation had passed a resolution that the rights and liberties of a freeman should be lost by anyone who, for a period of one

year, removed himself and his household goods from the borough. His Honour Judge Ruegg, K.C., decided that the claim had been brought before the wrong tribunal, as the Recorder alone had jurisdiction, and the action was therefore dismissed, with costs.

In *River Stour (Essex and Suffolk) Drainage Board* v. *Pettit* at Sudbury County Court the plaintiffs claimed £4 17s. 6d. for drainage rates, and contended that the jurisdiction of the court could be traced from the statute of 1531 (23 Hen. 8 c. 5), s. 8, and through the Sewers Act, 1833, to the Act of 1849. The latter Act provided, by s. 7, that for the purpose of better collecting and recovering fines it might be lawful for a defaulter to be summoned before any two commissioners to show cause why the money should not be paid and a distress warrant issued. Finally, there was the County Courts Act, 1888, s. 56, which provided that the court had jurisdiction in personal actions, and it was contended that the above claim was not within any of the excepted classes of cases. The defendant's case was that this was not a personal action, involving the position of debtor and creditor, as the rates were charged on the land, and the commissioners were the only proper tribunal to adjudicate. His Honour Judge Chetwynd Leech observed that the plaintiffs were constituted by a statutory order of 1919, but, although they were authorised to levy a drainage rate, this was not within the definition of personal actions. It was true that the latter implied an obligation or duty to pay, but this was only in matters arising in contract or tort, and not otherwise. Judgment was therefore given for the defendant, with costs. It transpired that similar cases had been before the court, but there had never been a plea to the jurisdiction, and (in the absence of a contest) the point had not previously been decided.

Practice Notes.

FRESH CONSIDERATION IN GAMING TRANSACTIONS.

(*Continued from* 74 Sol. J. p. 245.)

II.

In *Hill* v. *Chater*, recently heard at Coventry County Court, the claim was for £100 due from the defendant as a commission agent, he having been instructed to invest £10 each way at Windsor races on Cylgate. The horse won at the odds of 100 to 8, and the plaintiff therefore became entitled to £156 5s. but the balance had been abandoned in order to bring the claim within the jurisdiction of the court. Default had been made in payment of the amount, and the matter was reported to Tattersalls' Committee, who decided in the plaintiff's favour in the absence of the defendant. Payment was still not forthcoming, and, on a fresh report to Tattersalls, the Stewards of the Jockey Club warned the defendant off all courses. The defendant's case was that he had a rule to the effect that bets exceeding £5 must be telegraphed an hour before the race, whereas the plaintiff, in breach of this condition, had telegraphed £10 each way only three minutes before the race. His Honour Judge Drucquer observed that the circumstances should have been communicated to Tattersalls' Committee, but the plaintiff's case nevertheless failed by reason of the Gaming Act. Judgment was therefore given for the defendant with costs.

FUNERALS IN WORKING HOURS.

The legal problems occasioned by the above were recently considered at Llanelly in *Amalgamated Anthracite Collieries Ltd.* v. *Rees and Others*, in which the complainants claimed 15s. 9d. as damages for breach of contract from each of the eleven defendants. The complainants' case was that the defendants had asked for leave to finish work at 2 p.m. on the day of a funeral, and had not in fact descended the pit, although leave of absence had been refused. It therefore became necessary to suspend work for the afternoon and night shift, but the damages claimed were eventually reduced to 13s. 9d. per man. On the third day's hearing the Bench found as a fact that the complainants had refused a reasonable request, and the case was adjourned for settlement. The failure to achieve this result necessitated a fourth day's hearing, and the submission was then made for the complainants that there had been no actual request for the day off. This was disputed on behalf of the defendants, whose case was that it had been the practice, since 1918, to take a day off for certain funerals, but that the practice had fallen into disuse and a new agreement had been made, whereby an hour was allowed in the winter and half an hour in the summer. The manager's refusal of leave had been interpreted as a breach of the latter agreement, whereby the old practice was revived, so that the defendants had acted within their rights. Colonel Nevill, D.S.O. (the chairman), stated that the Bench held that, on the refusal of their reasonable request, the defendants had made an inferential application for leave of absence from the shift, and the cases were therefore dismissed. The Bench agreed to state a case, and, to provide for a certain contingency on appeal, the damages against each defendant were assessed at 7s. 6d.

Reviews.

The Law of Banker and Customer. By James Walter Smith, Barrister-at-Law. Twenty-sixth Thousand. Revised by R. Borregaard, Barrister-at-Law. pp. vi and 197. London: Effingham Wilson. 6s. net.

This little book, which has now reached its twenty-sixth thousand, has obviously proved a handy guide for all desirous of becoming acquainted with the legal relations of banker and customer, a subject in which we all have an interest. In short chapters, the various matters falling within the scope of the work are dealt with concisely, each chapter being broken up into numbered paragraphs, these being indexed at the beginning of the chapter to facilitate ready reference. In the chapter on bank notes, where there are useful paragraphs on the subject of lost or stolen notes and the procedure for stopping them, we find the statement that "in Scotland and Ireland notes of the Bank of England circulate, but are not a legal tender." This was accurate till the passing of the Currency and Bank Notes Act, 1928, which is cited by the learned editor a few lines above the sentence just quoted. Section 1, sub-s. (1) of that statute provides that "notwithstanding anything in any Act—(*a*) the Bank"—that is the Bank of England—"may issue bank notes for one pound and for ten shillings . . . (*c*) any such bank notes may be put into circulation in Scotland and Northern Ireland, and shall be current and legal tender in Scotland and Northern Ireland as in England." Thus, in terms, the notes of these smaller denominations are made legal tender in Scotland and Northern Ireland, but, curiously enough, there appears to be nothing to give the same characteristic to the higher denominations.

Books Received.

British Sailors' Society (at Home and Abroad) Incorporated. Including the Bethel Union and Port of London Society. 112th Annual Report. 1929. 52 pp. London: The Sailors' Palace, Commercial-road, E.14.

Ministry of Health. Report of the Departmental Committee on London Cleansing. Presented by the Minister of Health to Parliament, June, 1930. Cmd. 3613. H.M. Stationery Office. 6d. net.

The Law of Valuation in Scotland. C. W. Graham Guest, M.A., LL.B., and Advocate of the Inner Temple. Barrister-at-Law. 1930. Royal 8vo. pp. xxxi and (with Index) 300. Edinburgh and Glasgow: William Hodge & Co., Ltd. 25s. net.

POINTS IN PRACTICE.

Questions from Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to The Assistant Editor, 29, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Ancient Light—New Light Opened Above—Obstruction.

Q. 1979. A and B are owners of properties adjoining one another. B has just thrown out a window on the first floor in the north wall of her house below which there is a window on the ground floor which is an ancient light. The window on the first floor overlooks the rear portion of A's garden and as he naturally objects to being overlooked he proposes to obstruct the view from the said window by raising the west garden wall which divides the two properties, but in doing so it is possible that he may slightly obstruct the ancient light on the ground floor. The obstruction would not affect the direct light, but the light coming at an angle, the distance from A's garden to B's window being about 15 feet. Can A obstruct the view of his garden from B's window on the first floor notwithstanding the possible obstruction to B's ancient light from the window on the ground floor, taking into account the fact that B is the aggressor? If A can obstruct B's light, can he raise his one-half of the 9-inch west garden wall dividing the two properties (Law of Property Act, 1925, s. 38) for the purpose of obstruction which will necessitate the removal of or dividing the present coping on the top of the wall. When the property was conveyed to a predecessor in title of A in 1844 the piece of land was conveyed "together with one moiety or half part of the wall upon the west side of the said piece of land, the owner for the time being contributing equally with the owner of the adjoining property to the expense of keeping the said wall in repair."

It should be mentioned that several years ago a portion of the said wall was raised considerably in height and 9 inches in thickness to obstruct the view from two windows which a predecessor in title of B had thrown out in his west house wall overlooking A's garden, but it is not known at this period of time whether the wall was raised by consent or otherwise.

A. It is difficult to imagine how A could raise a wall which would block the light to the upper window and not substantially interfere with that to the window below, if one were vertically above the other. It is gathered from the question, however, though not distinctly stated, that the new window is not vertically over the old one. If the proposed wall would substantially diminish the light going to the ancient window it would be no defence that the obstruction was raised to prevent the acquisition of an additional easement of light to the new window. No one quite knows what are the rights of a party wall owner under s. 38, but the opinion is expressed that one owner might heighten his half provided he could show that he is not thereby substantially increasing the pressure on his neighbour's half. It is considered that any *great* increase in height would so increase the pressure as to impose a larger burden on the neighbour, but this is a technical and not a legal matter.

Income Tax—Deduction from Rent.

Q. 1980. Tenants of clients of ours inform us that their assessment to Sched. A tax has recently been very greatly increased, in respect of the years 1924-25 to date. They have always deducted the tax on the amount of the assessment in force for the time being, but now claim to deduct a further sum (exceeding half a year's rent) representing the difference between the tax already deducted and the full amount of tax paid in respect of the rent payable, which is only about half the increased assessment. We cannot find any provision in the Acts justifying such a claim, or any decision on the point. On the contrary, r. 8 (1) seems to limit the tenants' right to deduct to the rent payable for the time being and to the tax in force during the period through which the rent was accruing due. Kindly advise on the claim, and, if you think it well founded, whether our clients should make amended returns for the years in question in respect of super tax.

A. Rule 1 of No. viii of Sched. A would appear to prevent the taxpayer from deducting tax from rent except as to "an amount representing the rate or rates of tax in force during *the period through which the said rent was accruing due* for every 20s. thereof. The rule further provides that a tenant or occupier shall not be entitled to deduct out of the rent any greater sum than the amount of tax charged in respect of such property *as aforesaid*, and actually paid by him." It would appear, therefore, that the tenant may deduct only tax paid by him since the last payment of rent at the rate of tax ruling during the period of accrual on the amount of rent payable in respect of that period.

Income Tax—Rate of Deduction.

Q. 1981. Would you kindly inform us what rate of tax should at the present time be deducted from ground rent payable quarterly, but as a fact paid every half-year? Is it 4s. 6d. from the full rent, or 4s. from the rent to the 5th April and 4s. 6d. afterwards? Or is it 4s. 6d. in the £ on the two quarters' rent due 24th June? Section 39 of the Finance Act, 1927, provides that tax may be deducted or shall be allowed at the standard rate for the year in which the amount payable becomes due.

A. Unless there has been any binding agreement to substitute half-yearly for quarterly days of payment—in other words, if the landlord is still able, if he wishes, to enforce payment quarterly—it is considered the tax is clearly deductible at the rate in force at the closing day of each quarter.

Legality of Sunday Dances.

Q. 1982. A partnership desire to hold dances in their dance hall on a Sunday. The dance hall is situate in a locality where Pt. IV of the Public Health Acts Amendment Act does not apply. It seems that they would be contravening the Sunday Observance Act, 1780. It is suggested that patrons attending the hall on a Saturday night should be given a free ticket for Sunday by paying double admission fee on Saturday night, and in that way the Act could not apply. In the alternative it is suggested that tickets should be sold giving the purchasers a right to a sitting-out chair or place and not mentioning dancing. Would the Act apply or not in either, and if so, in which of such circumstances?

A. The gist of the offence created by the Sunday Observance Act, 1780, s. 1, is the *admission* of persons on payment of money, but the offence is also committed if the admission is by ticket, for which money has been paid. See *Terry* v. *The Brighton Aquarium Company* (1875), L.R. 10 Q.B. 306. There is no limitation of the time within which the money must be paid, in order to bring the case within the Act, and therefore the payment of double admission on Saturday night would not prevent the Act from applying. The Sunday ticket would not be issued free in such circumstances, and the court would be entitled to look at the true nature of the transaction. The suggested alternative procedure was held to be no breach of the Act in *Williams* v. *Wright* (1897), 13 T.L.R. 551, where the ticket bore the words "Admission Free. Reserved Seat 1s." The entertainment or amusement in that case was a

secular concert, but there is no distinction in principle between this and secular dancing. The Act is difficult to administer by reason of the uncertainty as to who should be made defendants, as shown by the decision of the Court of Appeal in *Reid* v. *Wilson* [1895] 1 Q.B. 315. The opinion is therefore given that the Act would not apply if the only charge made is for the use of a chair.

Separation Deed—Construction of Covenant.

Q. 1983. By a separation agreement made in 1930 H and W agreed (1) to continue to live separate and apart from each other, and neither of them to molest, annoy or interfere with the other, or institute any proceedings for restitution of conjugal rights or otherwise . . . (5) nothing in this agreement to prevent either of the parties hereto from taking any proceedings to obtain a decree of divorce or judicial separation. H now alleges that he is entitled to part of the proceeds of sale of certain chattels recently sold by W. In view of the clauses above set out, do you consider that H is estopped from suing for the amount due to him, or are the words "or otherwise" to be construed *ejusdem generis?* Any authorities would be appreciated.

A. We regret we are unable to quote an authority directly in point, but *Crouch* v. *Crouch* [1912] 1 K.B. 378, may be usefully referred to. The opinion is given that, unless the agreement purported to deal with the property in the possession of the two parties, H is not debarred from proceedings to enforce his claim, on the ground that the question of title to the chattels is entirely outside the scope of the agreement, and further that if H was in fact a part owner of the chattels, the sale of them was a wrongful act committed subsequently to the agreement, and for that reason also outside the scope of it.

Possession of Employee's Cottage.

Q. 1984. A was the owner of a cottage subject to the Rent Restrictions Acts, which was let on a quarterly tenancy to B, on whose garden the cottage abutted. B allowed his gardener C to occupy the cottage rent free by virtue of his employment. B sold his premises to D, and (with the consent of A) transferred to him his tenancy of the cottage, D continuing to employ C and permitting him to occupy the cottage as before. A died in 1929 having devised the cottage to E, and D has now terminated his tenancy by proper notice expiring on the 30th June. Several weeks prior to the expiration of the notice he discharged C, but permitted him to continue to occupy the cottage free of rent. E is willing to wait for possession of the cottage until Michaelmas next but not to forego rent. It appears:—

(1) The cottage is not de-controlled, the landlord not having been in vacant possession.

(2) C is not a statutory tenant as he occupied by virtue of his employment and has paid no rent.

(3) If C remains in occupation at a rental he becomes a statutory tenant.

What steps (other than the ejection of C) can be taken by E in order to de-control the premises and enable him to obtain vacant possession at Michaelmas. Could this be effected by accepting C as tenant on his signing a notice of his intention to quit at Michaelmas next?

A. The only step (other than the ejection of C) which can be taken in order to de-control the premises will be for C voluntarily to leave them (including the removal of his furniture) for a brief space of time and to hand over the key to E. Nothing less will be effectual to give E the "actual possession" stipulated by the Rent, etc., Restrictions Act, 1923, s. 2 (3), as a means of effecting de-control. Without actually de-controlling the premises, however, E will be able to obtain an order for possession at Michaelmas, if he accepts C as tenant on his signing a notice to quit at that date. In order to comply with the 1920 Act, s. 5 (*c*), it will further be necessary to satisfy the court that E has either contracted to sell or let the house, or has taken other steps whereby he would be seriously prejudiced if he could not obtain possession. On the facts stated, however, the opinion is given that C would not receive much consideration from the court, assuming that the housing problem in the particular district is not so acute as when the Acts were passed.

Stranger's Repairs to Wireless Set.

Q. 1985. A wireless set which was being returned to my client by the owner was placed in someone else's premises by mistake and never reached my client. This is roughly nine months ago. Acting for both buyer and seller, I have asked the person on whose premises the set was left mistakenly to return it, which he declines to do except on payment of a sum which he declares has been spent to put it right. Further, he states that he informed the police of the arrival of the set and they said that if no one claimed it within three months the set was his. Surely under the Statutes of Limitations the period should be six years. Am I correct in informing the person who has possession of this set that he has no title to it nor can he claim compensation for repairs and new parts as the set was not his to repair?

A. The questioner's view of the position is correct in every respect. The present holder of the set is liable for damages for (*a*) trespass to goods, or (*b*) conversion. He also has no lien for the work carried out, as this was not done on the instructions of the owner. Ownership can only be acquired after six years, and the three months' period is probably that which the local police allow to elapse before selling lost property. The risk of proceedings by the owner is probably negligible in most cases, but even a sale under statutory authority (which does not appear to exist in the present case) is no defence for the purchaser against a claim by the rightful owner. See a County Court Letter entitled "The Ownership of Lost Property" in our issue of the 4th January, 1930.

Contract for Sale of Land—Whether includes Right to Gas and Water through Pipes on other Land of Vendor.

Q. 1986. A was the owner of a rectangular plot of land. For his own convenience he laid gas and water pipes diagonally under the land. A public road was made dividing the land in two. On his death his executor was apparently unaware of the existence of these pipes and sold the two plots by auction using the National Conditions of Sale but without making any reference to the pipes. X bought a plot on one side of the public road and Y bought the other plot on the other side of the road. X wants the benefit of the pipes passing under the plot purchased by Y and under the road to X's plot. Neither of the plots has yet been conveyed and X and Y are at variance. The executor wishes Y's plot to be conveyed subject to an easement which would be passed on to X as he and X claim that there was an easement at the time of the sale and that the point is covered by s. 10 (1) of the conditions of sale. Y replies that A's use of the pipes was a proprietary right, and that there is not, and never has been, an easement for this section to operate upon. The executor thereupon contends that in any event Y is bound by s. 9 (3) of the conditions and must take the land in its actual state and condition, i.e., subject to the existence of the pipes and to the existing user thereof.

A. The opinion is given that clause 10 (1) is not applicable and that in all probability clause 9 (3) does not cover the point, and further that, unless it can be established the pipes under Y are necessary to the enjoyment of X (which, in view of the existence of the public road, seems unlikely), the purchaser of X is not entitled to a conveyance which would include the right to use the pipes under Y (see *Clark* v. *Barnes* [1929] 2 Ch. 268, also reported in L. J. Reports, 1930).

Notes of Cases.

Court of Appeal.

In re Hood: Public Trustee *v.* Hood.

Lord Hanworth, M.R., Lawrence and Romer, L.JJ. 8th July.

WILL—CONSTRUCTION—TRUST TO SPREAD CHRISTIAN PRINCIPLES AND TO MINIMISE AND EXTINGUISH DRINK TRAFFIC—VALID CHARITABLE TRUST.

Appeal from a decision of Bennett, J., reported 74 SOL. J. 154.

A testator, Joseph Hood, died on 12th July, 1922, and he directed that his residue, which amounted to about £13,000, should be paid to certain persons "to be held by them upon the trusts and provisions hereinafter declared and contained . . . Whereas I believe in the universality of the Christian religion and that the remedy for the unrest and disorders of the body politic will be found in the application of Christian principles to all human relationships And whereas I believe the drink traffic to be one of the most subtle and effective forces in preventing the successful application of these principles and I therefore hope and trust that active steps will be taken to minimise and ultimately extinguish this enemy of my country's welfare Now therefore I declare it to be my wish that my general beneficiaries shall hold the whole of my residuary trust estate together with the income thereof in spreading the Christian principles before mentioned and in aiding all active steps to minimise and extinguish the drink traffic." The Public Trustee, as trustee of the will, took out a summons to determine whether the clause constituted a valid charitable trust. Bennett, J., held that it did. The next-of-kin appealed. The Court, without calling on the Attorney-General, dismissed the appeal.

Lord HANWORTH, M.R., said that reading the will in accordance with the conditions laid down in *Hunter* v. *Attorney-General*, 47 W.R. 673; [1899] A.C. 309, it seemed plain that the first recital was the dominant clause—reciting the testator's belief in the principles of the Christian religion—and then he indicated his belief that a subtle barrier was interposed by the drink traffic, and he thought that an advancement would be gained if that barrier were withdrawn. He (Lord Hanworth) found it impossible to accept the contention of the appellants that two distinct and separate views or objects appeared from the clause. Rather it seemed that the testator's object was the advancement of Christian principles, with a suggestion as to a particular method by which the advancement could be furthered. In *In re Scowcroft: Ormrod* v. *Bishop's Itchington (Vicar)* [1898] 2 Ch. 638, there was a gift of a building for use as a village club and reading room "to be maintained for the furtherance of Conservative principles and religious and mental improvement and to be kept free from intoxicants and dancing." Stirling, J., there said: "The furtherance of religious and mental improvement is, in my judgment, an essential portion of the gift. It is, therefore, a gift in one form or another for religious and mental improvement, no doubt in combination with the advancement of Conservative principles; but the limitation, it appears to me, is not sufficient to prevent it from being a perfectly good charitable gift . . . I think that that construction is aided by the direction which follows, which is that the building in question is to be kept free from intoxicants and dancing." In the present appeal the essential and dominant provision seemed to be for the advancement of Christian principles. The appeal would, therefore, be dismissed.

LAWRENCE and ROMER, L.JJ., delivered judgments to the same effect.

COUNSEL: *Spens*, K.C., and *Gerald Upjohn*, for the appellants; *The Attorney-General* (Sir William Jowitt, K.C.) and *Stafford Crossman*, for the Attorney-General; *Norman Daynes*, for the Public Trustee.

SOLICITORS: *Sharpe, Pritchard & Co.*, for *Howard Cant and Cheadle*, Birmingham; *The Treasury Solicitor; Sweepstone, Stone, Barber & Ellis*, for *G. T. Smith & Lyde*, Birmingham.

[Reported by G. T. WHITFIELD-HAYES, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Revenue Officer, Barnsley *v.* Eyre Bros. Limited.

Avory, Talbot and Finlay, JJ. 5th June.

RATING—DE-RATING—MOTOR REPAIR WORKS—INDUSTRIAL HEREDITAMENT—RATING AND VALUATION (APPORTIONMENT) ACT, 1928 (18 & 19 Geo. 5, c. 44).

Appeal from a decision of Quarter Sessions for the West Riding of York.

The appellants, Eyre Bros. Limited, had a registered office at 6, Eldon-street, Barnsley, and carried on business as motor car builders and repairers, hirers of private cars, dealers in petrol and motor car accessories, and garage proprietors, in various premises in Barnsley. They were the occupiers of The Garage, Market Hill, Barnsley. The respondent was the Revenue Officer for the Barnsley Assessment Area. After objection by the appellants to the omission of the hereditament from the special list, the Assessment Committee decided that that hereditament, which the appellants contended was an industrial hereditament on the ground that it was primarily occupied and used as a workshop for the repair of motor vehicles, was an industrial hereditament, and was entitled to be placed in the special list. The appellants' estimate of the user of the premises was over 90 per cent. for workshop purposes. The revenue officer appealed to Quarter Sessions, who held that the hereditament was not an industrial hereditament within the meaning of s 3 (1) of the Rating and Valuation (Apportionment) Act, 1928, in that it was primarily occupied and used as a retail shop, and they allowed the appeal. The appellants now appealed.

FINLAY, J., said that the main question was whether the hereditament should be excluded from the special list on the ground that it was primarily occupied and used for the purpose of a retail shop. The first matter to be considered was whether the premises were, in the ordinary sense of the words, a retail shop. Retail trade meant, generally speaking, buying and selling in small quantities. A retail shop was a shop where such trade was carried on. No mark was decisive, but by way of illustration he might refer to the window and the counter. He was of opinion that the words in the section "premises of a similar character" meant premises resembling a shop in physical attributes. With regard to the difficult words "including repair work," he thought it clear that the case of *Ideal Cleaners and Dyers Ltd.*, v. *West Middlesex Assessment Committee and the Revenue Officer for West Middlesex* (1930, 74 SOL. J., 319), established the proposition that a place might be a retail shop though nothing but repairs were done in the shop and there was no retail selling. But it was not the result of that decision that every place where repairs were carried on was therefore a retail shop. It did not follow that all garages must be de-rated. Each case must be judged on its own facts. A conclusion that the ordinary garage was not entitled to the benefits of de-rating because primarily occupied and used for the purposes of a retail shop would be in no way inconsistent with the opinion which he had formed in this case. On the whole, while he thought the case one of considerable difficulty, he had arrived at the conclusion that the facts stated did not afford any evidence justifying the decision of Quarter Sessions. The appeal would be allowed.

TALBOT, J., delivered judgment to the same effect.

AVORY, J., dissenting, said that except that the garage might be larger that many others, he was unable to distinguish it from the ordinary garage where running and other repairs were done. In view of the definition of a shop in the Shop

Act, 1912, as "any premises on which retail trade or business is carried on," he did not think it essential that the premises should resemble a shop in physical attributes, such as a shop window and counter. In his opinion the business on the premises in question was a retail, as distinguished from a wholesale, business in repair work. He thought that the appeal should be dismissed.

COUNSEL: *The Attorney-General* (*Sir William Jowitt*, K.C.), *Wilfrid Lewis* and *Colin H. Pearson*, for the Revenue Officer; *Willoughby Jardine*, K.C., and *Donald*, for the respondent occupiers.

SOLICITORS: *The Treasury Solicitor; Corbin, Greener and Cook*, for *Smith & Ibberson*, Barnsley.

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Rogerson *v.* **Scottish Automobile and General Insurance Co. Ltd.** Roche, J. 16th July.

INSURANCE—MOTOR CAR—NEW CAR ACQUIRED—OLD POLICY NOT TRANSFERRED—ACCIDENT—INSURANCE COMPANY'S REPUDIATION OF LIABILITY—CONSTRUCTION OF POLICY TERMS.

The plaintiff in this action insured his motor car with the defendants. The policy was dated the 23rd May, 1928, and renewed from time to time, and provided, *inter alia*, that the defendants would indemnify the plaintiff against: "All sums which the assured shall become legally liable to pay as compensation for . . . bodily injury . . . caused to any person or persons by a motor car described in the schedule thereto." The policy also provided that: "This insurance shall cover the legal liability as aforesaid of the assured in respect of the use by the assured of any motor car (other than a hired car), provided that such car is at the time of the accident being used instead of the insured car." The plaintiff caused personal injuries to a third person on the 28th July, 1929, while using a Lancia car. The Lancia car was a new one he had acquired. He had instructed his brokers by telephone to have the insurance of the old car transferred to the new, but it was not done in fact. He had been sued for damages in consequence of the accident, and he referred the claim to the defendants who, however, repudiated liability. The plaintiff now claimed damages for alleged breach of contract, and a declaration that the defendants were liable to indemnify him in respect of any sums he might be called on to pay in the action against him. The plaintiff contended that the car which he was using was one covered by the policy words: "Any car . . . being used instead of the insured car." The defendants said that the whole scope of the policy was the insurance of the plaintiff as owner of the old car, and that as soon as he ceased to be owner of that car the liability of the defendants ceased also.

ROCHE, J., said that the plaintiff claimed that he was still protected in respect of third-party claims, because he used the new car "instead of" the old. In the present case the old car and the new were of a similar type, and in his opinion the plaintiff in fact used the new car instead of the old one. There was no express term in the policy, and he held that none should be implied, that continuance of ownership of the car originally insured was necessary for continuance of the liability of the defendants in respect of third-party claims. Judgment for the plaintiff for the declaration for which he asked, with costs.

COUNSEL: *Schiller*, K.C., and *N. Fox-Andrews*, for the plaintiff; *Rayner Goddard*, K.C., and *G. O. Slade*, for the defendants.

SOLICITORS: *William Charles Crocker; Stanley Evans and Co.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Legal Parables.

LX.

The Family Butcher, the Tuberculous Beef, and the Unsound Advice.

THERE was once a butcher who sold prime family joints. He was very prosperous, and had a ruddy face. He never ate his own meat.

He sold horseflesh to purchasers who asked for beef, well bearing in mind that definition which makes it include the flesh of asses and mules. In slaughtering he always sought to be ahead of nature, but when uncertain whether the beast had succumbed to its maladies or been killed by himself, he either gave himself the benefit of the doubt, or concealed it in his sausages. When his sausages burst before sale, he baked them into "faggits" with potato and bread and extra pepper. Like Mrs. Polly's eggs, they were very tasty.

Thus he continued many years and the sound of his knife upon his steel was heard in the High Street from the beginning of the day to the end thereof, except on Sundays, when he went to church, and on Mondays when he rested and counted his money.

He never obstructed a medical officer or inspector of nuisances, for by reason of his friendship with certain great ones, none troubled him.

But the times changed and men changed with them. One, Dr. Nosey Parker, was appointed medical officer of health, in spite of the opposition of certain members of the local authority, who were wont to sell their worn-out cows to the family butcher.

Dr. N. Parker was zealous, efficient, independent, incorruptible, and ruthless, and he traced a doubtful pig to the butcher's back premises. But the butcher was too quick for him that time and got the pig safely buried.

With a tuberculous cow he was not so lucky. The doctor

"found the heifer dead and bleeding fresh,
and saw fast by a butcher with an axe";

and he drew the same inference as Warwick.

He laid his information before a bench which could nohow be got at.

The butcher's legal advisers did indeed consider whether one who was a vegetarian and another who was known to buy his meat at the Stores in London could not be objected to on the ground of bias, but they wisely held their hand.

They warned then the ill-used man of the danger of imprisonment without the option. So, before the hearing, he went to Belgium with his hard-earned money. And his only pleasure was to see the equine halt and lame, dying and dead, removed from the "Sausage boat" which in those years left our shores each week for the land of his refuge.

Thus he endured for many months. And a warrant was out.

Then he became acquainted with one, Mr. Noall, a solicitor who had been struck off the Rolls, and found the Belgian air good for his cough. This worthy man explained the six months' limit of time for summary prosecutions, and advised the butcher that he might return in safety to his native shores. But, of course, Mr. N. was quite wrong, and the misguided butcher was arrested and haled to the seat of justice.

He was still not without hope, because he thought that his beef must long before this have been buried and eaten by worms. But great is the malice of such as Dr. Nosey Parker. The beef was there in a great vessel full of spirit, and the tubercles were plain to be seen (another of the bench became a vegetarian that day).

So the bad butcher got his three months in gaol.

The moral is by one Pope, a poet.

Mr. John Finlayson, of Kaimore, Ellon, Aberdeenshire, solicitor and bank agent, left personal estate of the gross value of £1,267.

Rules and Orders.

THE COUNTY COURT DISTRICTS (MISCELLANEOUS No. 1) ORDER, 1930. DATED JULY 24, 1930.

I, John Lord Sankey, Lord High Chancellor of Great Britain, by virtue of section 4 of the County Courts Act, 1888,(*a*) as amended by section 9 of the County Courts Act, 1924,(*b*) and of all other powers enabling me in this behalf, do hereby order as follows :—

1. The holding of the County Court of Huntingdonshire held at Saint Neots shall be discontinued, and the parishes set out in the first column of Schedule I to this Order (being the parishes constituting the district of that Court) shall be transferred to, and form part of, the County Court Districts set opposite to their names respectively in the second column of that Schedule.

2. The County Court of Huntingdonshire held at Huntingdon shall have jurisdiction to deal with all proceedings which shall be pending in the said Court held at Saint Neots when this Order comes into operation.

3. The holding of the County Court of Norfolk held at Aylsham shall be discontinued, and the parishes set out in the first column of Schedule II to this Order (being the parishes constituting the district of that Court) shall be transferred to, and form part of, the County Court Districts set opposite to their names respectively in the second column of that Schedule.

4. The County Court of Norfolk held at North Walsham shall have jurisdiction to deal with all proceedings which shall be pending in the said Court held at Aylsham when this Order comes into operation.

5. The holding of the County Court of Yorkshire (East Riding) held at Howden shall be discontinued, and the parishes set out in the first column of Schedule III to this Order (being the parishes constituting the district of that Court) shall be transferred to, and form part of, the County Court Districts set opposite to their names respectively in the second column of that Schedule.

6. The County Court of Yorkshire (West Riding) held at Goole shall have jurisdiction to deal with all proceedings which shall be pending in the said Court held at Howden when this Order comes into operation.

7. The Parishes set out in the first column of Schedule IV to this Order shall be detached from, and cease to form part of, the County Court Districts set opposite to their names respectively in the second column of the said Schedule, and shall be transferred to, and form part of, the County Court Districts set opposite to their names respectively in the third column thereof.

8. In this Order the expression "parish" shall mean a place for which immediately before the 1st day of April, 1927, a separate poor rate was or could be made or a separate overseer was or could be appointed.

Provided that, unless the contrary intention appears, the boundaries of every parish mentioned in this Order shall be those constituted and limited at the date of this Order.

9.—(1) This Order may be cited as the County Court Districts (Miscellaneous No. 1) Order, 1930, and the County Courts (Districts) Order in Council, 1899,(*c*) as amended, shall have effect as further amended by this Order.

(2) Paragraphs 1 and 2 of this Order shall come into operation on the 14th day of August, 1930, paragraph 7 of this Order shall come into operation on the 1st day of October, 1930, paragraphs 5 and 6 of this Order shall come into operation on the 1st day of November, 1930, and the remainder of this Order shall come into operation on the 1st day of August, 1930

Dated the 24th day of July, 1930.

Sankey, C.

(*a*) 51-2 V. c. 43. (*b*) 14-5 G. 5, c. 17.
(*c*) S.R. & O. 1899, No. 178, printed as amended to 1903, S.R. & O. Rev. 1904 111, County Court, E., p. 1.

Schedule I.

First Column. Parishes.	Second Column. County Court District.
	Bedfordshire—
Colmworth.	Bedford.
Little Staughton.	Bedford.
Pertenhall.	Bedford.
Swineshead.	Bedford.
Abbotsley.	Biggleswade.
Eaton Socon.	Biggleswade.
Great Gransden.	Biggleswade.
Little Barford.	Biggleswade.
Little Gransden.	Biggleswade.
Tetworth.	Biggleswade.
Waresley.	Biggleswade.
Caxton.	*Cambridgeshire*— Cambridge.
	Huntingdonshire—
Buckden.	Huntingdon.
Croxton.	Huntingdon.
Diddington.	Huntingdon.
Eltisley.	Huntingdon.
Eynesbury.	Huntingdon.
Eynesbury Hardwicke.	Huntingdon.
Grafham	Huntingdon.
Great Paxton.	Huntingdon.
Great Staughton.	Huntingdon.
Graveley.	Huntingdon.
Hail Weston.	Huntingdon.
Kimbolton.	Huntingdon.
Little Paxton.	Huntingdon.
Midloe.	Huntingdon.
Offord Cluny.	Huntingdon.
Offord D'Arcy.	Huntingdon.
Saint Neots.	Huntingdon.
Saint Neots Rural.	Huntingdon.
Southoe.	Huntingdon.
Toseland.	Huntingdon.
Yelling.	Huntingdon.

Schedule II.

First Column. Parishes.	Second Column. County Court District.
	Norfolk—
Foulsham.	Fakenham.
Themelthorpe.	Fakenham.
Wood Norton.	Fakenham.
Aldborough.	Holt.
Calthorpe.	Holt.
Corpusty.	Holt.
Guestwick.	Holt.
Hindolveston.	Holt.
Irmingland.	Holt.
Itteringham.	Holt.
Mannington.	Holt.
Saxthorpe.	Holt.
Thurning.	Holt.
Wickmere.	Holt.
Wolterton.	Holt.
Wood Dalling.	Holt.
Alby with Thwaite.	North Walsham.
Aylsham.	North Walsham.
Banningham.	North Walsham.
Blickling.	North Walsham.
Brampton.	North Walsham.
Burgh.	North Walsham.
Cawston.	North Walsham.
Colby.	North Walsham.
Erpingham.	North Walsham.
Heydon	North Walsham.
Ingworth.	North Walsham.
Marsham.	North Walsham.
Oulton.	North Walsham.
Oxnead.	North Walsham.
Scottow.	North Walsham.
Skeyton.	North Walsham.
Swanton Abbot.	North Walsham.
Tuttington.	North Walsham.
Belaugh.	Norwich.
Buxton.	Norwich.
Coltishall.	Norwich.
Great Hautbois.	Norwich.
Hackford.	Norwich.
Hevingham.	Norwich.
Lammas with Little Hautbois.	Norwich.
Reepham with Kerdiston.	Norwich.
Sall.	Norwich.
Stratton Strawless.	Norwich.
Whitwell.	Norwich.
Alderford.	Norwich.
Booton.	Norwich.
Brandiston.	Norwich.
Great Witchingham.	Norwich.
Haveringland.	Norwich.
Little Witchingham.	Norwich.
Swannington.	Norwich.

Schedule III.

First Column. Parishes.	Second Column. County Court District.
	Yorkshire (West Riding)—
Asselby.	Goole.
Balkholme.	Goole.
Barmby on the Marsh	Goole.
Belby.	Goole.
Bellasize.	Goole.
Bishopsoil.	Goole.
Blacktoft.	Goole.
Broomfleet.	Goole.
Cotness.	Goole.
Eastrington.	Goole.
Faxfleet.	Goole.
Gilberdike.	Goole.
Gribthorpe.	Goole.
Howden.	Goole.
Kilpin.	Goole.
Knedlington.	Goole.
Laxton.	Goole.
Metham.	Goole.
Wressell.	Goole.
Portington and Cavil.	Goole.
Saltmarshe.	Goole.
Scalby.	Goole.
Skelton.	Goole.
Spaldington.	Goole.
Thorpe.	Goole.
Wallingfen	Goole.
Willitoft.	Goole.
Yokefleet.	Goole.
Aughton.	Selby.
Brackenholme with Woodhall.	Selby.
Breighton and Gunby.	Selby.
Bubwith.	Selby.
Ellerton Priory.	Selby.
Foggathorpe.	Selby.
Harlthorpe.	Selby.
Hemingbrough.	Selby.
Menthorpe-cum-Bowthorpe.	Selby.
	Yorkshire (East Riding)—
Holme-upon-Spalding Moor.	Pocklington.
Laytham.	Pocklington.
Hotham.	Beverley.
North Cave with Everthorpe and Drewton.	Beverley.

Schedule IV.

First Column. Parishes.	Second Column. County Court Districts.	Third Column. County Court Districts.
	Derbyshire—	*Derbyshire*—
Hartington Middle Quarter.	Bakewell.	Buxton, Chapel-en-le-Frith and New Mills.
	Staffordshire—	
Quarnford.	Leek.	Buxton, Chapel-en-le-Frith and New Mills.
	Leicestershire—	
Castle Donington.	Loughborough.	Dergy and Long Eaton.
Hemington.	Loughborough.	Derby and Long Eaton.
Lockington.	Loughborough.	Derby and Long Eaton.
	Gloucestershire—	*Herefordshire*—
Bromsberrow.	Newent.	Ledbury.
Preston.	Newent.	Ledbury.
	Norfolk—	*Norfolk*—
Gateley.	East Dereham.	Fakenham.
Guist.	East Dereham.	Fakenham.
Horningtoft.	East Dereham.	Fakenham.
Twyford.	East Dereham.	Fakenham.
Whissonsett.	East Dereham.	Fakenham.
Melton Constable.	Fakenham.	Holt.
Welborne.	Wymondham.	East Dereham.
	Shropshire—	*Staffordshire*—
Albrighton.	Madeley.	Wolverhampton.
Boningale.	Madeley.	Wolverhampton.
Boscobel.	Madeley.	Wolverhampton.
Donington	Madeley	Wolverhampton.
Patshull.	Madeley.	Wolverhampton.
	Suffolk—	*Suffolk*—
Thorpe Morieux.	Sudbury.	Bury St. Edmunds.
Hawkedon.	Sudbury.	Bury St. Edmunds.
	Wiltshire—	*Wiltshire.*
Netheravon.	Devizes.	Salisbury.
	Worcestershire—	*Worcestershire*—
Abberley.	Worcester.	Kidderminster
Ealing, part of viz.: The part which constituted the parish of Twyford Abbey (otherwise known as the parish of West Twyford) immediately before the commencement of the Ministry of Health Provisional Order Confirmation (Ealing Extension) Act, 1926.	*Middlesex*— Marylebone.	*Middlesex.* Brentford.

Parliamentary News.

PAVING CHARGES.

Mr. PHILIP OLIVER asked the Minister of Health whether the investigation which he is conducting into the paving charges on owner-occupiers of new houses has reached a stage at which definite results can be announced; and, if not, when does he expect to be in a position to make such an announcement.

Mr. GREENWOOD: Investigations are still proceeding, but, owing to the intricacies of the subject and the pressure of other business, I am sorry that I cannot promise an early announcement.

LAND VALUATION BILL.

Mr. SCOTT, Major GRAHAM POLE and Mr. KELLY asked the Chancellor of the Exchequer on what date he proposes to circulate the Land Valuation Bill for the information of Members.

Mr. PETHICK-LAWRENCE: Owing to other preoccupations, my right hon. Friend has not been able to find as much time as he could have wished for the consideration of this matter, and I am unable at present to add to what he said in reply to the hon. Member for Erdington (Mr. Simmons) on the 26th June.

MENTAL DEFICIENCY.

Dr. MORRIS-JONES asked the Minister of Health whether he will recommend the appointment of a commission or committee to make full inquiries into the causation of mental deficiency; into its relationship to other abnormal conditions and social problems; and into any measures, including both segregation and sterilisation, by which it might be prevented.

Mr. GREENWOOD: I cannot undertake to recommend the appointment of the suggested Commission at the present time; but the desirability of initiating such an inquiry will be borne in mind.

SWEEPSTAKES AND WHIST DRIVES.

Mr. DAY asked the Home Secretary whether, in view of the uncertainty existing with regard to the present laws on the legality of sweepstakes, crossword puzzles, whist drives, and

other forms of such recreation, he will consider the appointment of a committee which will have as its object the making of suggestions as to how the existing laws can be clarified and brought into uniformity.

Mr. CLYNES: As at present advised, I do not think the course suggested is necessary.

PLAYING FIELDS (RATING).

Mr. GREENWOOD, in reply to Mr. D. G. SOMERVILLE: I understand that the National Playing Fields Association are in communication with the Central Valuation Committee with a view to formulation by the committee of recommendations for the guidance of rating authorities and assessment committees.

OFFICIAL SECRETS ACT.

Sir K. WOOD asked the Prime Minister whether, following his recent interview with the Newspaper Proprietors' Association and the Institute and Union of Journalists, he proposes to take any action in relation either to the amendment of or future action under the Official Secrets Act.

THE PRIME MINISTER (Mr. Ramsay MacDonald): I recently received a deputation from the Newspaper Proprietors' Association, the Newspaper Society, the Institute and Union of Journalists, and Press Agencies, in regard to the Official Secrets Acts. It was agreed that representatives of these bodies should meet the Attorney-General to discuss the questions raised in more detail.

Legal Notes and News.

Wills and Bequests.

Mr. Edward Beaumont (Barrister-at-Law and a Bencher of Lincoln's Inn), of Argyle Road, Kensington, W., and of New Square, Lincoln's Inn, W.C., died on 29th April, aged eighty-five leaving estate of the gross value of £24,728, with net personalty £24,324. He gives £300 to Frederick Charles Brown, £200 to Harry Pinckney, £150 to Harriet Pake, and £125 to Leah Clarke, if respectively in his service.

Mr. Adam Fox, Solicitor and Notary Public, of Stapeley, Ashton Lane, Ashton-on-Mersey, Cheshire, and of Princess Street, Manchester, left estate of the gross value of £44,678, with net personalty £34,735.

Mr. Thomas Eggar, solicitor, of Moungomeries, Brunswick Road, Hove, and Old Steyne, Brighton, of Thomas Eggar and Son, solicitors, of Old Steyne and Gracechurch Street, E.C., left estate of the gross value of £26,681, with net personalty £11,939.

Mr. Thomas Ponsonby Tilly, solicitor, of Olicana, Margaret-street, Bare, Morecambe-and-Heysham, for some time Town Clerk of Morecambe, left estate of the gross value of £2,169, with net personalty nil.

Mr. Godfrey Hale Boyce, solicitor, of Rosslyn-mansions, Hampstead, N.W., left net personalty £55,643. Among the bequests were £1,000 and £500 to two of his clerks, "in appreciation of the loyal and able assistance they have always given me"; £100 and £5 for each year of service in excess of three years to his typist; six months' wages and £5 for each year of service in excess of three years to each other male or female clerk of not less than three years' service.

Mr. Henry Delacombe Roome, Barrister-at-Law, of Grovelands, Beechwood-avenue, Weybridge, Surrey, and of Paper-buildings, Temple, E.C., Senior Treasury Counsel, left estate of the gross value of £19,023, with net personalty £17,438.

Mr. Thomas Francis Crozier, of Avonmore, Stillorgan, Co. Dublin, Solicitor and Land Agent, of Thomas Crozier & Son, Ely-place, left estate in England and the Irish Free State of the gross value of £21,802.

Sir George Young, 3rd Bart., of Formosa Fishery, Cookham, Berks, formerly Chief Charity Commissioner for England and Wales, who died on 4th July, aged ninety-two, left unsettled property of the gross value of £9,436, with net personalty £6,936.

LAND VALUATION PROPOSALS.

TEXT OF THE BILL.

A Bill "to provide for the valuation of land in Great Britain and for purposes consequential thereon," the measure referred to by Mr. Snowden when introducing the Budget, was, says *The Times*, issued on Tuesday, 29th July. It consists of ten clauses and two schedules.

Clause 1 provides that the Commissioners of Inland Revenue shall "cause a valuation to be made of all land in Great Britain, showing what the fee simple in possession might have been expected to realise upon a sale in the open market," on the assumptions:—

(*a*) That there had not been upon or in the piece of land any buildings, any works, except any road and any works executed for the purpose of any public service or for agricultural purposes, or anything growing on the land except grass and any heather, gorse, or other natural growth, and, in the case of agricultural land, except also hedges and trees other than fruit trees.

(*b*) That the purchase price had been computed without taking into account the value of minerals, as such, the cutting value of any trees, or improvements ordinarily the subject of payment to an outgoing tenant.

The "cultivation value" at the date of the valuation of agricultural land is to be ascertained on the basis of its permanent use solely for agriculture.

Shooting and fishing rights in ownership other than that of the land over which they exist are to be valued, the Act to apply "as if those rights were parcels of land."

No valuation under the Act is to be made of sites of places of worship, churchyards, and burial grounds, public open spaces, and land owned by a statutory company and used for their statutory purposes, and which cannot be alienated.

Clause 2 provides that a copy of each valuation shall be served on the owner of the land and that in the event of an appeal the matter may be referred to one of the panel of referees appointed under Part I of the Finance (1909-10) Act, 1910.

Fines not exceeding £50 may be inflicted on summary conviction of any person refusing to give any information within his power regarding land to be valued.

There are three or four pages of definitions. The schedules prescribe the particulars required on production of instruments of transfer, and the following "incumbrances from which land is not deemed to be free for purposes of valuation":—

(1) Rights of common, drainage rights, customary rights, public rights, rights of sheepwalk, rights of way, watercourses, rights of water and other easements.

(2) Liability to repair highways by reason of tenure.

(3) Liability to repair the chancel of any church.

(4) Liability in respect of embankments, and sea and river walls.

(5) Restrictions on user imposed by law or agreement and binding on the owner and his successors in title.

(6) Rates and taxes, including land tax.

COMMERCIAL KNOWLEDGE AND THE LAWYER.

The connexion between law and commerce was stressed by the President of the Incorporated Secretaries Association (Major R. Rigg, B.A., J.P.), when he gave a lecture on "Commercial Education and the Professional Bodies," at the Oxford Conference of Commercial Teachers, held at St. Hugh's College, Oxford, from the 18th to 21st July. He said that commercial education to-day must include a considerable amount of legal knowledge. On the other hand, the lawyer should have a thorough practical knowledge of commercial subjects. Although the professions of the lawyer and the accountant were quite distinct, every good accountant should have a sound knowledge of legal principles, and every good lawyer should be a good accountant. It was a move in the right direction that double entry book-keeping had been introduced into the syllabus and training for future solicitors, and he would like to see further steps taken along the same road. Perhaps it was a belief in the dignity of slowness and inconvenience that led many of our solicitors to keep filing and duplicating systems to-day that were fifty years behind the times. He would, therefore, urge that every young man who was entering the legal profession should take a short course in real business training and be encouraged to attend exhibitions of the latest machinery for general business efficiency.

The lecturer also referred to the delay and expense involved in judges taking down evidence in longhand, and advocated the use of shorthand notes for the purpose. He urged that every budding barrister should become an expert shorthand writer. One or two of our K.C.'s had been competent shorthand writers, and he was sure that Mr. Tim Healy attributed his success at the Bar in no small measure to his ability as a shorthand writer, just as the Marquis of Reading would acknowledge that his phenomenal success in the law was partly attributable to the wide business experience he obtained before taking up the law as a profession.

UNIFORMITY OF VALUATION FOR LOCAL RATES.

The Central Valuation Committee, which was constituted under s. 57 of the Rating and Valuation Act, 1925, with the object of promoting national uniformity in valuation for local rates, has now made a sixth series of representations to the Minister of Health who has circulated them to all rating and valuation authorities. These representations can be obtained from H.M. Stationery Office direct (price 3d. each, or 2s. 3d. per dozen copies), or through any bookseller.

The Committee point out that the important changes brought about by the Rating and Valuation (Apportionment) Act, 1928, and the Local Government Act, 1929 (commonly known as the " de-rating Acts "), have necessarily affected the terms of their previous published representations and they make a detailed statement indicating the effect of these Acts upon those representations. The statement, which has been compiled after obtaining the joint opinion of counsel upon the issues involved, deals with the following, among other, matters: the application of s. 72 of the Act of 1929 to the assessment of farmhouses and farm labourers' cottages; the compulsory rating of owners of farmhouses and farm cottages; sewers' or other rates payable by owner, as owner, in relation to the assessment of farmhouses; tithe rent-charge in relation to farmhouses and farm cottages; the rating of agricultural land used for advertising purposes; and the treatment of reserved, and other, sporting rights exercised over agricultural land.

In connexion with the last-mentioned subject the effect of the recent decision of the High Court in the case of *Hastings* v. *The Revenue Officer for the Walsingham Rural District* is discussed and a table is given showing the various circumstances under which sporting rights are, and are not, separately rateable.

In the covering letter addressed to the Minister of Health which is printed with the new series, it is stated that the total number of farmhouses in England and Wales (outside London) on the 1st April, 1929, was 241,692 and their rateable value £2,142,120. It is also stated that the rateable value of all property in England and Wales (outside London) on that date was approximately £234,000,000 and that it is estimated that this value was, through the de-rating Acts, reduced on the 1st October, 1929, to about £200,000,000. The total number of rateable hereditaments in England and Wales (outside London) on the 1st April, 1929, is stated to have been ten and a half millions.

The Committee state that they are still in communication with the Treasury with regard to the revision of the basis on which rates, and contributions in lieu thereof, are paid on telegraph and telephone wires, posts and kiosks and Territorial Army property, and that " there is undoubtedly a growing dissatisfaction among the authorities with the present position."

The scale on which the local authorities are invited to contribute to the Committee's expenses for the current financial year is at the rate of 5s. per £10,000 of rateable value, and it is estimated that this call will bring in some £5,000.

The new series of representations contains an index to the resolutions and other matter contained in all the series issued up to date.

BRITISH POSTGRADUATE HOSPITAL AND MEDICAL SCHOOL.

PROVISIONAL ORGANIZATION COMMITTEE.

The Minister of Health, Mr. Arthur Greenwood, after consultation with the London County Council and the Senate of the University of London, has appointed a Provisional Organization Committee to proceed with the action necessary to secure the establishment of the British Postgraduate Hospital and Medical School.

The terms of reference of the Committee are to consider and report, in pursuance of the statement made by the Minister of Health in the House of Commons on the 9th April, upon (1) the action requisite to lead up to the planning and construction of the Medical School; and (2) the form of government appropriate to the hospital and medical school, with special reference to the position of the London County Council as the local authority responsible for the hospital, and to the position of the University of London in relation to the medical School.

The Chairman of the Committee is The Right Hon. Viscount Chelmsford, G.C.S.I., G.C.M.G., G.C.I.E., G.B.E., and the Ministry of Health will be represented by Sir George Newman, K.C.B., M.D., F.R.C.P., Chief Medical Officer, and Mr. M. Heseltine, C.B., an Assistant Secretary.

Mr. Heseltine will act as Secretary of the Committee, and all communications on the business of the Committee should be addressed to him at the Ministry of Health, Whitehall, S.W.1.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (1st May, 1930) 3%. Next London Stock Exchange Settlement Thursday, 28th August, 1930.

	Middle Price 13th Aug. 1930.	Flat Interest Yield.	Approximate Yield with redemption.
English Government Securities.		£ s. d.	£ s. d.
Consols 4% 1957 or after	88⅞	4 10 2	—
Consols 2½%	55⅝	4 9 8	—
War Loan 5% 1929-47	103⅝	4 16 5	—
War Loan 4½% 1925-45	99½	4 10 6	4 11 9
War Loan 4% (Tax free) 1929-42	102½	3 18 1	3 15 0
Funding 4% Loan 1960-90	91	4 7 11	4 8 6
Victory 4% Loan (Available for Estate Duty at par) Average life 35 years	96	4 3 4	4 4 6
Conversion 5% Loan 1944-64	105	4 15 3	4 14 0
Conversion 4½% Loan 1940-44	99½	4 10 6	4 11 0
Conversion 3½% Loan 1961	79½	4 8 1	—
Local Loans 3% Stock 1912 or after	65	4 12 4	—
Bank Stock	256½	4 13 7	—
India 4½% 1950-55	86	5 4 8	5 11 8
India 3½%	63	5 11 1	—
India 3%	54	5 11 1	—
Sudan 4½% 1939-73	95	4 14 9	4 15 6
Sudan 4% 1974	86	4 13 0	4 15 6
Transvaal Government 3% 1923-53 (Guaranteed by British Government, Estimated life 15 years.)	83½	3 11 10	4 2 3
Colonial Securities.			
Canada 3% 1938	91	3 5 11	4 6 0
Cape of Good Hope 4% 1916-36	96	4 3 4	4 14 6
Cape of Good Hope 3½% 1929-49	84	4 3 4	4 15 6
Ceylon 5% 1960-70	101	4 19 0	4 19 0
Commonwealth of Australia 5% 1945-75	90½	5 10 6	5 11 6
Gold Coast 4½% 1956	93	4 16 9	4 19 9
Jamaica 4½% 1941-71	94	4 15 9	4 17 0
Natal 4% 1937	96	4 3 4	4 14 9
New South Wales 4½% 1935-45	81½	5 10 5	6 8 6
New South Wales 5% 1945-65	87⅛	5 14 3	5 17 0
New Zealand 4½% 1945	95	4 14 9	4 19 3
New Zealand 5% 1946	102	4 18 0	4 17 6
Nigeria 5% 1950-60	102	4 18 0	4 17 6
Queensland 5% 1940-60	88⅛	5 13 0	5 16 3
South Africa 5% 1945-75	102	4 18 0	4 17 9
South Australia 5% 1945-75	89⅛	5 11 9	5 16 0
Tasmania 5% 1945-75	87⅛	5 14 3	5 13 0
Victoria 5% 1945-75	89⅛	5 11 9	5 13 0
West Australia 5% 1945-75	87⅛	5 14 3	5 16 0
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corporation	63	4 15 3	—
Birmingham 5% 1946-56	103	4 17 1	4 16 0
Cardiff 5% 1945-65	102	4 18 0	4 17 6
Croydon 3% 1940-60	72	4 3 4	4 15 0
Hastings 5% 1947-67 (First full half year's Dividend in October, 1930.)	103	4 17 1	4 15 9
Hull 3½% 1925-55	79	4 8 7	4 19 6
Liverpool 3½% Redeemable by agreement with holders or by purchase	74	4 14 7	—
London City 2½% Consolidated Stock after 1920 at option of Corporation	52	4 16 2	—
London City 3% Consolidated Stock after 1920 at option of Corporation	64	4 13 9	—
Manchester 3% on or after 1941	64	4 13 9	—
Metropolitan Water Board 3% "A" 1963-2003	66	4 10 11	—
Metropolitan Water Board 3% "B" 1934-2003	66	4 10 11	—
Middlesex C.C. 3½% 1927-47	85	4 2 4	4 16 0
Newcastle 3½% Irredeemable	73	4 15 11	—
Nottingham 3% Irredeemable	64	4 13 9	—
Stockton 5% 1946-66	100	5 0 0	5 0 0
Wolverhampton 5% 1946-56	102	4 18 0	4 17 3
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	81	4 18 9	—
Gt. Western Rly. 5% Rent Charge	99	5 1 0	—
Gt. Western Rly. 5% Preference	95	5 5 3	—
L. & N.E. Rly. 4% Debenture	74½	5 7 5	—
L. & N.E. Rly. 4% 1st Guaranteed	71	5 12 8	—
L. & N.E. Rly. 4% 1st Preference	56½	7 1 7	—
L. Mid. & Scot. Rly. 4% Debenture	78½	5 1 11	—
L. Mid. & Scot. Rly. 4% Guaranteed	74	5 8 1	—
L. Mid. & Scot. Rly. 4% Preference	62½	6 8 0	—
Southern Railway 4% Debenture	80	5 0 0	—
Southern Railway 5% Guaranteed	98½	5 1 6	—
Southern Railway 5% Preference	88½	5 13 0	—